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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/462,502	01/24/2000	YASUO KONDO	10641-0001-3	5164

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EXAMINER

SIMONE, CATHERINE A

ART UNIT

PAPER NUMBER

1772

DATE MAILED: 08/12/2002

13

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/462,502

Applicant(s)

KONDO ET AL.

Examiner

Catherine Simone

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3, 5-17,19 and 20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,5-17,19 and 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Withdrawn Rejections***

1. The objection to the abstract and the 35 USC 112 rejection of claims 1, 3, 5-13, 18 and 19 of record in Paper #11, Pages 2 and 3, Paragraph 4 have been withdrawn due to the Applicant's amendment in Paper #12.

### ***Rejections Repeated***

2. The 35 USC 102 rejection of claims 1, 3, 5, 12, 13, 18 and 19 as anticipated by Nakashima et al. is repeated for the reasons previously of record in Paper #11, Pages 3 and 4, Paragraph #6.
3. The 35 USC 103 rejection of claims 6-11 over Nakashima et al. is repeated for the reasons previously of record in Paper #11, Pages 7 and 8, Paragraph #9.
4. The 35 USC 103 rejection of claims 14-17 over Nakashima et al. in view of Dominique et al is repeated for the reasons previously of record in Paper #11, Pages 8 and 9, Paragraph #10.
5. The 35 USC 103 rejection of claim 20 over Nakashima et al in view of Matsumoto et al. is repeated for the reasons previously of record in Paper #11, Pages 9 and 10, Paragraph #11.

### ***Response to Arguments***

6. Applicant's arguments filed May 28, 2002 have been fully considered but they are not persuasive. Applicant argues that "reference numeral "4" in Fig. 3 of *Nakashima et al.* is really entitled a lid plate and does not show any overlapping portions." However, it is to be pointed out

that a lid plate can be an overlapping portion. When you look at both the reference drawing (Fig. 3, #4) and the drawing for the present invention (Fig. 1, #15), both the lid plate and the overlapping portion are located on the outer edge of the main body. Therefore, they can be the same. Furthermore, *Nakashima et al.* clearly states that “the lid plate and the hinge extending upward from the main body of the lid plate reinforcement is fixedly joined by the bracket to the airbag case” (Fig. 7; also see col. 5, lines 15-17). Therefore, one of ordinary skill in the art would understand the lid plate is overlapping with the main body as taught by *Nakashima et al.*

Applicant further argues that “reference character “3a” is an opening in the airbag case of *Nakashima et al.*, and not an opening in the main body (5a) as is being recited in the claim.” However, when looking at both the reference drawing (Fig. 3, #3a) and the drawing of the present invention (Fig. 1, #12) both openings are areas of space located beneath the main body. Therefore, both are formed in the main body.

Applicant argues that “*Nakashima et al.* and *Dominique et al.* are not combinable because if *Nakashima et al.* were modified by the deformation restricting portion (reference numeral 36 in Fig. 1) of *Dominique et al.*, the passenger-side airbag system of *Nakashima et al.* would not work for its intended purpose.” In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, *Nakashima et al.* and *Dominique et al.* both teach

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the airbag assembly in an instrument panel art. It would appear that the deformation restricting portion constituted of a convex strip having an angular cross section or concave groove of Dominique et al when combined with the airbag of Nakashima et al would function to restrict deformation of the cover body of the airbag panel. Therefore, they appear to be clearly combinable, and when combined would clearly work for its intended purpose as taught by both references.

Regarding claim 20, Applicant states that “the thermoplastic resin core of *Matsumoto et al.* forms a part of the final product and is in no way similar to Applicant’s core (61) which is part of the mold. Therefore, not only would it inherent to interrupt a portion between a first cavity portion and a second cavity portion of *Matsumoto et al.*, but *Matsumoto et al* does not show and would not require such a step. Since the step of interrupting cannot be shown and is not disclosed in *Matsumoto et al.*, the step of forming a communicating portion is not shown and cannot be shown by *Matsumoto et al.* as there would be no core of the mold to be retreated.” In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, *Nakashima et al.* discloses a panel for an airbag similar to Applicant’s. *Matsumoto et al.* is merely cited to teach the obviousness of having a method for producing a panel comprising steps of preparing a thermoplastic material (col. 2, lines 32-35), arranging a movable

core in a male or female die (col. 2, lines 226-376) and injecting a material (col. 2, lines 33-35). The Examiner's position is that when these two references are *combined* they would produce a step of interrupting a portion, forming a communicating portion, and forming an overlapping portion as set forth in the claims.

### *Conclusion*

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine Simone whose telephone number is (703) 605-4297. The examiner can normally be reached on 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (703) 308-4251. The fax phone numbers for the

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organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

*CAS*  
Catherine Simone  
Examiner  
Art Unit 1772

August 7, 2002

*Harold Pyon*  
HAROLD PYON  
SUPERVISORY PATENT EXAMINER  
1772

*8/8/02*